# VWAP Overview

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# GOALS of the Training

1. Refresher/Basic Training for VWLO and VWAP representatives
2. Understand impact of crime and the justice system upon victims, especially victims of violent crime
3. Improve Marine Corps Installation programs to provide best support to our victims and witnesses
4. Focus on best practices to accomplish #3

# VWAP 101

# VWAP: PURPOSE & GOALS

- Ensure that all victims and witnesses are treated with dignity and respect.
- Ensure all victims are aware of their rights and are provided services they need
- Protect victims from further harm or hardship
- Employ a multi-disciplinary approach to assisting victims and witnesses by combining the services of law enforcement, family advocacy, medical, legal corrections, and command personnel.

# VICTIM AND WITNESS ASSISTANCE PROGRAM (VWAP) - REFERENCES

- Victim Witness Protection Act of 1982 – establishes VWAP
- Victims of Crime Act of 1984 – DOJ funded/Victims have fund
- Crime Control Act of 1990 – Victims right to information about offenders
- NDAA 1994 – mandates notification of inmate status changes
- 18 U.S.C. § 3771(a) “Justice for All Act of 2004” – most recent
- DoDD 1030.1 of April 13, 2004 “Victim and Witness Assistance”
- DoDI 1030.2 of June 4, 2004 “Victim and Witness Assistance Procedures”
- SECNAVINST 5800.11B of 5 Jan 2006 “Victim and Witness Assistance Program”

# Victims Eligible for VWAP Services

- Person who suffers physical, emotional, or pecuniary harm as a result of a crime if any portion of the investigation is conducted primarily by DoD component:
- Includes, *but is not limited to*:
  - Military members and dependents.
  - Outside the Continental U.S. - DoD civilian employees, contractors, and family members.
  - If victim is under 18, incompetent, incapacitated, or deceased, the term includes either: spouse, guardian, parent, child, sibling, family member, or another person designated by court.
  - Authorized representative of Institutional Entity – but not entitled to individual services – such as, transitional compensation, etc.

- Civilians if the offense is punishable under the UCMJ and any portion of the investigation is conducted primarily by a DoD Component.

# VWAP: VICTIMS' RIGHTS

- The right
  - to be reasonably protected from the accused.
  - to reasonable, accurate, and timely notice of any public court proceeding, any parole proceeding, movement or release of the accused.
  - not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.

# VWAP: VICTIMS' RIGHTS

- The right
  - to be reasonably heard at any public proceeding involving release, plea, sentencing, or any parole proceeding.
  - to full and timely restitution as provided in law.
  - to proceedings free from unreasonable delay.
  - to be treated with fairness and with respect for the victim's dignity and privacy.
  - The reasonable right to confer with the attorney for the Government in the case.

# VWAP: VICTIMS' RIGHTS

- *Victim's rights do not provide authority for a legal "cause of action" against the Government.*

# VWAP: Witnesses eligible for services

- A person who has information or evidence about a crime, and provides that knowledge to a DOD Component about an offense in the investigative jurisdiction of a DOD component.
  - When the witness is a minor, a witness includes a family member or legal guardian.
- The term witness does not include a defense witness or an individual involved in the crime as a perpetrator or accomplice.

# VWAP: WITNESS' RIGHTS

- To be treated with fairness and respect for the witness's dignity and privacy.
- To be reasonably protected from the accused.
- To be notified of any scheduling changes which will affect their appearance at court-martial.
- To be notified of the apprehension of an accused, the initial appearance of an accused before a military judge, the release of the accused pending court-martial, and trial proceedings (including entry of guilty pleas and sentencing).
- To receive information about the conviction, sentence, confinement, and release of the accused.

# VWAP: WITNESS' RIGHTS

- *Witness' rights do not provide authority for a legal "cause of action" against the Government.*

# VWAP: DOD POLICY

- Role of victims/witnesses should be enhanced/protected
- Do all that is possible to assist victims/witnesses without infringing on the rights of the accused
- ***Particular attention should be paid to victims of serious, violent crime, including sexual assault, child abuse, and domestic violence.***

# VWAP: HOW IT WORKS

- Base and Installation commanders are responsible for implementing VWAP and shall be the central points of contact for VWAP issues aboard the installation.

- Base and Installation Commander manage through Victim Witness Liaison Officer (VWLO), VWAP Council and Victim Witness Assistance Coordinators for commands.

# VWAP OFFICIALS

- USMC - SJA to CMC
  - CMC provides DoD VWAP Council Rep – That's me!
- CMC (PSL) Corrections
- MCI Regional Commanding Generals RVWLO
- Installation commanders – VWLO
- Unit commanders – Bn/Sq and above – VWAC
- Law enforcement - VWAP Representative
- Legal representatives - VWAP Representative

# VWAP Definitions

- **RVWLO –** MCI Region/MCICOM/MFR CG's primary representative on all VWAP matters.
- **VWLO** - The installation commander's representative responsible for the coordination of victim and witness assistance efforts aboard the installation.
- **VWAC** - The command's primary point of contact for victim and witness assistance matters.
- **Victim** – suffered a direct physical, mental or pecuniary harm from the commission of a crime (UCMJ or local)
- **Witness** – someone who has information

# INSTALLATION LEVEL: WHO DOES WHAT

- **RVWLO –** Manages VWAP throughout the Commander's area of responsibility
- **VWLO** - manage base programs for Commanders
- **NCIS/CID/PMO** – normally first responsibility to inform crime victims and witnesses of rights under program; perform threat assessment; assist in contacting other services; safeguard property; contact command VWACs
- **Prosecutors and legal personnel** - have continuing responsibility to ensure rights and services afforded victims and witnesses
- **Victim Witness Legal Officer** – provides limited representation of eligible victims

# INSTALLATION LEVEL: WHO DOES WHAT

- Sexual Assault Prevention and Response Program/ SARCs, UVAs – SA Only
- Victim Legal Counsel – represents eligible victims
- Family Advocacy Program – Victim Advocates
- Transitional Compensation – HQMC via commanders
- Unit Commanders – Security, military protective orders, notifications
- Chaplain – counseling, comfort
- Medical - services
- Civilian advocacy services, social services, medical

# VWAP: COORDINATION IS KEY

- "All offices responsible for a part of the military justice process (including, but not limited to, law enforcement and criminal investigative agencies, convening authorities, legal, corrections) are responsible for ensuring a smooth transition of victim and witness assistance at each stage of the criminal justice process. ***This means that close coordination is required among the VWAP personnel assigned to each of these offices during the transition from one phase of the criminal justice process to the next."***
- Ensure right contact information is given on each DD Form to each Victim or Witness

# RVWLO *REQUIREMENTS*

- Ensures training is **available** to all VWLOs and VWACs
- Maintains list of all VWLOs in region
- Chair semi-annual Regional VWLO Meeting
- Ensure data (2701-2704) collection for the region
- Available to inspect VWLOs and VWACs as part of CGIP

# VWLO *REQUIREMENTS*

- Ensures coordination among all offices
- Maintains list of all VWACs
- Ensures VWACs have relevant information, including VWAC roster and directory of local services/programs
- Chairs VWAP Council
- Ensures victims are notified of all support, services and rights available and VWAC information.
- Assists Base CO in reporting requirements

# VWLO *REQUIREMENTS*

- “Maintain a directory of military and civilian programs and services . . . within geographic area of the installation.”
- If necessary, assist in contacting the people responsible for providing victim and witness services and relief
- VWLO – Maintains Base VWAP website

# VWAP vs SAPR

- VWAP is an overarching assistance program for victims and witnesses of any crime, regardless of type and criminal proceeding. SAPR is a specialized victim assistance program for sexual assault cases.
- The main requirements of VWAP are for the necessary personnel to inform victims of their rights, fill out the appropriate forms, and track the status of a confined individual if requested.  Under SAPR, the obligations are much more labor intensive and require constant coordination of all parties.

# VWAP vs SAPR Purpose

- VWAP

To uniformly notify victims/witnesses of their rights throughout the criminal justice process.

- SAPR

To eliminate sexual assaults within the Marine Corps and to assist those Marines affected by sexual assault; to provide standardized requirements, guidelines, protocols, and instructional materials on awareness and prevention of sexual assault; to provide an immediate, trained response capability for each report of sexual assault in all locations; and to ensure support of effective command programs

# VWAP vs SAPR Applicability

VWAP

- Applies to all victims of crimes committed in violation of the UCMJ, or in violation of the law of another jurisdiction

SAPR

- Applies to all eligible victims of sexual assault

# VWAP vs SAPR Implementation

VWAP

- All Marine Corps personnel, and Navy personnel attached to Marine units, engaged in detecting, investigation, or prosecuting crime, and all personnel assisting crime victims and witnesses are responsible for the implementation of the VWAP requirements

SAPR

- Report to command by 3rd Party
- Victims may report sexual assaults in one of two manners:
  - Unrestricted Reporting –
  - Restricted Reporting –

# VWAP vs SAPR
# Personnel Involved

SAPR

- Uniform Victims Advocates

VWAP

- Victim Witness Assistance Coordinators

- Can they be the same person?
- Look at the job title – different roles and responsibilities evident

# VWAP FORMS

- An end to themselves?
- No –
  - Ensures that the support, services and rights are provided and ensured.
- ***DD Forms 2701-2704 do not replace genuine service and support.***

# VWAP: Pretrial & DD Form 2701

- NCIS/CID/PMO provide V/Ws with DD Form 2701
- If no investigation – Prosecution team provides DD Form 2701

- 2701 provides initial rights advisement, discusses impact of various crimes, explains basic services and notifies V/W where to get further assistance

# VWAP: Military Trial Process & DD Form 2702

- Upon first contact with victim or witness, prosecution provides DD Form 2702
- DD Form 2702 explains military trial process, gives tips and restates rights.
- 2702 includes rights regarding participating in trial process.
- 2702 provides VWAP responsible official contact information and prosecutor contact information

# VWAP: Post Trial & DD Form 2703

- Prosecution provides victim or witness with DD Form 2703 at finish of trial.
- Includes “Right to receive information about the conviction, sentencing, imprisonment, parole eligibility and release of the accused”
- Provides Contact info for Service Central Repository *(CMC PSL (Corrections)),* Confinement Facility, Service Clemency and Parole Board and any other necessary agency/office
- *“From now on, your POC will be the confinement facility or the Service Central Repository listed on the back of this page.”*

# VWAP: Post Trial & DD Form 2704

- TC provides brig with DD Form 2704 at finish of trial.
- Requires election by each V/W whether to receive information on confinement status
- Provided to victims and witnesses upon request (redacted)

- **The 2700s are never included in the ROT – these have personal info of victims and witnesses and should not be shared**

# VWAP: Post Trial Notifications & DD Form 2705

- Corrections personnel ensure notifications made to V or Ws listed on DD Form 2704
- Clemency Eligibility
- Parole Eligibility
- Change in status – Parole/Clemency Approved, Released, Deceased, Escaped, Transferred, Work release

# MCO 5800.14 VWAP

- Creates RVWLO
- TCs shall not serve at VWLO/RVWLO
- Quarterly reporting of 2701-2704 for VWLOs
- Addition of Legal Assistance Attorney Role
  - Now superseded by Victim Legal Counsel
- Additional requirements for Confinement facilities
- VWACs should not serve as UVAs (SAPR Order may be more restrictive)
- LSST OICs have requirement for VWAP Data in CMS

# Functional Area Checklist

- USMC IG
  - 092 Functional Area Checklist for VWAP
    - New in 2012
  - The Marine Corps Standard for VWAP
  - Soon to be core inspection area

  - http://www.hqmc.marines.mil/igmc/Resources/FunctionalAreaChecklists.aspx

# VWAP: RESOURCES AND FORMS

- CMC – Maj Mark Sameit (703) 693-8955; mark.sameit@usmc.mil / Capt Brian Magee micahel.magee@usmc.mil / GySgt Daniel Sears (703)693-9283 daniel.w.sears@usmc.mil
- CMC (PSL Corrections) (703) 614-1480
- Installation Victim Witness Liaison Officers (VWLO)

- http://www.defenselink.mil/vwac/dodprograms.html (DOD VWAP COUNCIL WEBSITE) – contains link to training presentations and forms
- http://www.ncvc.org/ncvc/Main.aspx (National Center for Victims of Crime)
- http://www.ojp.usdoj.gov/programs/victims.htm (DOJ Office for Victims of Crime)
- http://vwac.defense.gov/ (DoD Victim Witness Assistance Council)

# SUMMARY

- Victims/Witnesses of Crime deserve protection and assistance
- Interdisciplinary Program
- Coordination is Key
- Base Commanders own Local Base Programs
- All agencies have a role